

3

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O.A.No.51 of 2013
Cuttack this the 12th day of February, 2013

CORAM
HON'BLE MR. A.K. PATNAIK, MEMBER (JUDL.)
HON'BLE MR.R.C.MISRA, MEMBER (ADMN.)

Madan Mohan Roy,
Aged about 54 years,
S/o.Late Anil Baran Roy,
Working as Mail Express Guard,
East Coast Railway,
Sambalpur,
At/Po/Dist. Sambalpur.

.... Applicant

(By Advocates: M/s.B.S.Tripathy,M.K.Rath,J.Pati,Ms.M.Bhagat)

-VERSUS-

UNION OF INDIA represented through -

1. The General Manager,
East Coast Railway,
Rail Vihar,
At/Po.Chandraekharpur,
Bhubaneswar,
Dist. Khurda.
2. Chief Operation Manager,
East Coast Railway,
Rail Vihar,
At/Po.Chandrasekharpur,
Bhubaneswar,
Dist. Khurda.
3. The Additional Divisional Railway Manager,
East Coast Railway,
Sambalpur,
At/Po/Dist. Sambalpur.
4. The Senior Divisional Operations Manager,
East Coast Railway,
Sambalpur,

R. V. Alles

At/Po/Dist.Sambalpur.

.....Respondents

(By Advocate: Mr.T.Rath)

0 R D E R (Oral)

MR.A.K.PATNAIK, MEMBER(J):

Applicant (Madan Mohan Roy) working as Mail Express Guard, East Coast Railway, Sambalpur, At/Po/Dist. Sambalpur has filed this Original Application inter alia challenging the minor penalty proceedings initiated against him, order of punishment dated 30.12.2011 (Annexure-A/4) and the notice dated 24.5.2012 (Annexure-A/6) issued by the Appellate Authority by way of giving opportunity to the applicant as to why the punishment imposed by the DA shall not be enhanced with prayer to quash the said order/notice under Annexure-A/4 & A/6 for the same being illegal and arbitrary.

2. Heard Mr.M.K.Rath, Learned Counsel for the Applicant and Mr.T.Rath, Learned Standing Counsel appearing for the Respondents and perused the records.

3. Mr.Rath, Learned Standing Counsel appearing for the Respondents vehemently objected to the prayer of the Applicant on the ground that if the applicant has any grievance against the order under Annexure-A/4 he should have preferred appeal within a period of 45 days as per rules he having not availed of the said opportunity is estopped under law to challenge the proceedings. Next contention of Mr.Rah, Learned Standing Counsel appearing for the Respondents is that Annexure-A/6 is a show cause notice to which the applicant submitted his reply on 24.1.2013 and no final order has been passed thereon till

2

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date and as such this OA being premature should not be entertained at this stage.

4. According to the applicant no order has been passed by the Appellate Authority after submission of the reply dated 24.1.2013 by the applicant to the show cause notice dated 24.5.2012 (Annexure-A/6). As per rules, the appellate authority, even if enhancement notice has been issued, after considering the reply has a right to set aside, modify the punishment etc. of the order of the DA. Therefore, we are not inclined to entertain this OA at this stage and as prayed for by Mr.M.K.Rath, Learned Counsel for the Applicant, without expressing any opinion on the merit of the matter, this OA is disposed at this admission stage with liberty to the Respondent No.3 to issue final order dealing with all points raised by the applicant in his reply if not already issued within a period of thirty days from the date of receipt of copy of this order and till such time the order of punishment (Annexure-A/4) if not already given effect to shall not be given effect to. There shall be no order as to costs.

5. Copy of this order along with OA be sent to Respondent No.3 at the cost of the applicant; for which learned counsel for the applicant undertakes to furnish the postal requisite by 14th February, 2013.


(R.C.MISRA)
Member(Admn.)


(A.K.PATNAIK)
Member (Judl.)